

NOTICE TO INTERESTED PARTIES

This solicitation is provided to you for information purposes. If interested in responding to this solicitation, you may choose to submit your offer on the downloaded document **provided** you register your company by fax or e-mail for this specific solicitation. If you do not register your company, you will not receive addenda, if any, and your offer will be automatically rejected and not considered for award.

Registration or Request for Copy of Solicitation

Submit FAX or E-MAIL to:	FAX No.:	(808) 587-1244
	E-mail Address:	michael.b.clack@hawaii.gov
		or
		marc.s.yamamoto@hawaii.gov

Provide the following information:

- | | | |
|-----------------------|--|--------------------------|
| - Name of Company | - Mailing Address | - Name of Contact Person |
| - Telephone Number | - Facsimile Number | - E-Mail Address |
| - Solicitation Number | - Fedex (or equivalent) account number (document will be sent by U.S. Postal Service first class mail if this is not provided) | |

**STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
HONOLULU, HAWAII**

Procurement Notice Date: August 19, 2009

**INVITATION FOR BIDS
NO. PSD 10-NED-01**

SEALED OFFERS
FOR
FURNISHING

ELECTRONIC MONITORING OF PRESCRIPTIONS
FOR
NARCOTICS ENFORCEMENT DIVISION
DEPARTMENT OF PUBLIC SAFETY

WILL BE RECEIVED UP TO AND OPENED AT 2:00 P.M. (HST) ON
SEPTEMBER 4, 2009

IN THE DEPARTMENT OF PUBLIC SAFETY, ADMINISTRATIVE SERVICES OFFICE –
PROCUREMENT AND CONTRACTS SECTION, 919 ALA MOANA BOULEVARD, ROOM 413,
HONOLULU, HAWAII 96814.

QUESTIONS RELATING TO THIS BID SOLICITATION SHALL BE IN WRITING AND
DIRECTED TO MR. MARC YAMAMOTO, FACSIMILE NO. (808) 587-1244 OR E-MAIL AT:
marc.s.yamamoto@hawaii.gov.

Clayton A. Frank
Director

PSD 10-NED-01

Name of Company

ELECTRONIC MONITORING OF PRESCRIPTIONS
DEPARTMENT OF PUBLIC SAFETY
PSD 10-NED-01

Procurement Officer
Department of Public Safety
919 Ala Moana Boulevard, Room 413
Honolulu, Hawaii 96814

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications and Special Provisions attached hereto, and in the General Terms and Conditions, AG-008, as revised, by reference made a part hereof and available upon request; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof. The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

The undersigned represents: **(Check ☒ one only)**

- ☐ A **Hawaii business** incorporated or organized under the laws of the State of Hawaii; **OR**
☐ A **Compliant Non-Hawaii business** not incorporated or organized under the laws of the State of Hawaii, but registered at the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division to do business in the State of Hawaii.

State of incorporation: _____

Offeror is:

- ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ Joint Venture
☐ Other _____

Federal I.D. No.: _____

Hawaii General Excise Tax License I.D. No.: _____

Payment address (other than street address below): _____

City, State, Zip Code: _____

Business address (street address): _____

City, State, Zip Code: _____

Respectfully submitted:

Date: _____

(x) _____

Authorized (Original) Signature

Telephone No.: _____

Fax No.: _____

Name and Title (Please Type or Print)

E-mail Address: _____

* _____

Exact Legal Name of Company (Offeror)

*If Offeror is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the awarded contract will be executed:

The following offer is hereby submitted for furnishing Electronic Monitoring of Prescriptions for the Department of Public Safety, Narcotics Enforcement Division, as specified herein:

The bid prices submitted below for the Electronic Monitoring of Prescriptions services shall be paid to the selected Contractor. No other request for payment shall be honored. Contractor(s) shall be responsible for all taxes, fees, licenses, insurance, supplies, and other costs. No other claims for payment shall be honored.

<u>Bid Item</u> <u>No.</u>	<u>Description</u>	<u>Bid Price per Month</u>	<u>No. Of Months</u>	<u>Total Sum Bid</u>
1 a.	1 st Year, includes purchase price of software source code, help desk services, and hosting.	\$ _____	12	\$ _____
1 b.	2 nd Year includes help desk and hosting	\$ _____	12	\$ _____
2.	Hosting Services: 3 rd Year	\$ _____	12	\$ _____
3.	Hosting Services 4 th Year	\$ _____	12	\$ _____
4.	Hosting Services 5 th Year	\$ _____	12	\$ _____

TOTAL SUM BID OF ITEMS 1 THROUGH 4 (for evaluation purposes) \$ _____

Point of Contact: _____

Telephone Number: _____ Fax Number: _____

Commercial General Liability insurance coverage:

Carrier _____

Policy No. _____

Agent _____

Offeror _____
Name of Company

**WAGE CERTIFICATE
FOR SERVICE CONTRACTS**
(See Special Provisions)

Subject: IFB No.: PSD 10-NED-01

Title of IFB: Electronic Monitoring of Prescriptions for Narcotics Enforcement
Division, Department of Public Safety

Pursuant to Section 103-55, Hawaii Revised Statutes (HRS), I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

1. All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and
2. The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of professional, managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by section 103-55, HRS.

Offeror _____

Signature _____

Title _____

Date _____

TAX EQUALIZATION CERTIFICATE

(See Special Provisions)

SUBJ: IFB No.: PSD 10-NED-01
Description: Electronic Monitoring of Prescriptions for Narcotics Enforcement
Division, Department of Public Safety

Out-of-state Offerors not possessing a Hawaii General Excise Tax (hereinafter "GET") license must answer all questions:

Yes No
(check only one)

- | | | | |
|----|--|-------|---------|
| 1. | Does your business have an office, inventory, property, employees, or other representation in the State of Hawaii (hereinafter "SOH")? | _____ | _____ |
| 2. | Does the contract to be awarded require your business to have an office, inventory, property, employees, or other representation in the SOH? | _____ | _____ |
| 3. | Does your business provide services in conjunction with the sales of property, such as training, installation, or repairs in the SOH? | _____ | _____ |
| 4. | Will your business provide any services in the SOH under the contract to be awarded? | _____ | _____ * |

*If the entire services are to be subcontracted, subject to the State's approval, provide the names of the subcontractor(s):

If you answered "Yes" to any question, then you have sufficient presence in the State and are advised that the gross receipts derived from this solicitation are subject to the GET imposed by Chapter 237, Hawaii Revised Statutes (hereinafter "HRS"), at the current 4% rate, and where applicable to tangible property imported into the SOH for resale, subject to the current 1/2% use tax imposed by Chapter 238, HRS.

If you answered "No" to all questions, then the taxpayer preference provision described in Section 103-1008, HRS, applies to you.

Offeror _____

Signature _____

Title _____

Date _____

Reference: _____
(Contract Number) (IFB/RFP Number)

1. Chapter 383, HRS, Hawaii Employment Security Law – Unemployment Insurance;
2. Chapter 386, HRS, Worker’s Compensation Law;
3. Chapter 392, HRS, Temporary Disability Insurance;
4. Chapter 393, HRS, Prepaid Health Care Act; and

Moreover, _____
(Company Name)
acknowledges that making a false statement shall cause its suspension and may cause its
debarment from future awards of contracts.

Date: _____

SPECIFICATIONS

OVERVIEW

The Hawaii Department of Public Safety, Electronic Prescription Accountability System was initiated in 1997 to identify potential controlled substance abuse within the state. Collection of schedule II controlled substance prescription data began in 1998. In 2000, it was expanded to include Schedules III and IV. The Hawaii PMP's goal is to enforce Chapter 329 of the Hawaii Revised Statutes. Chapter 329 contains all laws pertaining to controlled substances, its administration, dispensing, and prescribing.

The Hawaii Department of Public Safety is seeking to contract with a vendor to provide a fully hosted Prescription Monitoring software application with real-time data collection. Hawaii requires the Prescription Monitoring executable, documented software source code ownership and the source code be deposited into an escrow account.

I. SCOPE OF WORK

1. Mandatory Requirements

Vendors must comply with the following requirements. Bid submittals which do not demonstrate compliance to these requirements will be rejected.

- 1.1 Must have executable, documented source code which will include technical training and assistance. Hawaii requires the fully operational database application. Hawaii desires to have ownership and control of the software source code to use, view and modify the code independently of any vendor. Source code must be put into an escrow account.
- 1.2 Must have a fully operational hosted Prescription Monitoring database application.
- 1.3 Must adhere to the most current national Health Insurance Portability and Accountability Act (HIPAA) standards for confidentiality. Possess a minimum of 10 years experience with HIPAA data requirements and a proven history of securely communicating and managing Patient Health Information (PHI) data.
- 1.4 The fees proposed must be fixed over the entire operation period 2 year hosting contract with an option of 3 additional years. First year must include cost for source code purchase and escrow account. During this time an increase to the fees negotiated will not be permitted.
- 1.5 Must maintain nationwide prescriber file for use with data cleansing and de-duplication functions. Prescriber file must maintain valid DEA, NPI, address, state license numbers and sanctions for 99% of all active prescribers.
- 1.6 Must have ability to collect controlled substance prescription data in real time from existing pharmacy networks that represent a minimum of 60% of Hawaii's controlled substance prescription volume.

- 1.7 While Hawaii finds complete value in the Prescription Monitoring system prior to Prescription Monitoring Information Exchange (PMIX) support, the state requires that the vendor to be actively participating in PMIX discussions.
- 1.8 Reporting capabilities for Harold Rogers Grant Performance Measurements.
- 1.9 Reporting capabilities for National All Schedules Prescription Electronic Reporting Act (NASPER) requirements.

2. Configuration and Environments

- 2.1 Beta Test Environment: populated with at least one year of active data which will be used to evaluate the look and feel for the product and have the ability to do comparisons against our current database to assure we receive the same if not better patient matching and reporting. This beta test environment, or a similar environment, will also be used during the contract period for testing and de-bugging enhancements, fixes, etc.
- 2.2 Training Environment: populated with one year of active data which supports training for administrators of the system along with validation and reporting.
- 2.3 Production Environment: this will be the complete active database with validation, range checks, business rules, menus, reports and security.

3. Hosting

- 3.1 The vendor must provide the hardware, communications, and software necessary to operate the Prescription Monitoring Program. The hardware will be housed in a secure and fault-tolerant data center with appropriate physical access control, disaster recovery and network application, and data security controls. Vendor must use The National Institute of Standards and Technology (NIST)'s Computer Security Division for data security controls.
- 3.2 Vendor must directly maintain a robust Data Center which includes:
 - 3.2.1 Extensive physical security, including guarded building with strictly controlled card reader access within buildings
 - 3.2.2 Multi-level access security for systems, data, and networks
 - 3.2.3 24/7 staffed monitoring of hardware, software and networks
 - 3.2.4 Power assurance with immediate cutover to battery-based UPS backed by redundant on-site power generators capable of supporting 5 days of operations
 - 3.2.5 Environmental safeguards including fire detection and suppression systems, water and flood protection, and redundant temperature/humidity control systems.
 - 3.2.6 Regularly scheduled security audits

4. Data collection and Standardization

- 4.1 Extract real time data transactions submitted at the time of dispensing or sale.
- 4.2 Connectivity and established relationships with over 60% of the pharmacies in the state of Hawaii.
- 4.3 The system must support multiple dispenser submissions in a single joint file for chains or other collective reporting entities that centrally report for more than one dispenser.
- 4.4 The system must support the following submission methods:
- 4.5 Automatic extraction from claims network transactions
- 4.6 Batch files (electronic and other)
- 4.7 Online form via secure web portal
- 4.8 Provide an online interactive web form for a “zero dispensing report”
- 4.9 Prescriber database of all licensed prescribers; updated monthly and includes at a minimum:
 - 4.9.1 Licensing information
 - 4.9.2 Contact information including e-mail addresses (if available)
 - 4.9.3 Sanctions (from all sources)
 - 4.9.4 Status of license i.e., active, deceased, expired
 - 4.9.5 DEA registration number
 - 4.9.6 NPI number
- 4.10 Dispenser database of all registered dispensers in and out of the State; updated monthly and includes at a minimum:
 - 4.10.1 Licensing information
 - 4.10.2 Contact information including e-mail addresses (if available)
 - 4.10.3 Sanctions; any disciplinary action
 - 4.10.4 DEA registration number
 - 4.10.5 NPI number
 - 4.10.6 NABP/NCPDP number
- 4.11 National Drug Code database of all drugs; updated monthly and includes class of drug

- 4.12 System must identify and delete duplicate prescription records automatically and have the ability to delete duplicate prescriptions manually
- 4.13 System must provide automated notifications to dispensers regarding the dispenser's prescription files submitted, successful or errors encountered and track re-resubmissions of prescription files
- 4.14 System must filter dispensed prescriptions vs. filled prescriptions
- 4.15 System must be able to tag "back to stock" prescriptions
- 4.16 System must be able to delete erroneous characters in any field including additional spaces, and special characters that are in the prescription record
- 4.17 Validation checks against every record submitted and reject ones that do not match the correct format or have other errors in them for re-submission
- 4.18 Process for correcting data (that has already been loaded) when data entry errors are found
- 4.19 Data collection at a minimum of once a week; however, daily uploads are desired
- 4.20 Provide name standardization, using name-matching logic or other methods to bring together records that belong to one individual. This will be crucial for producing patient reports.

5. Registration of Authorized Users

- 5.1 Authorized users are any prescriber or dispenser of controlled substances that hold an active Controlled Substance license with the State of Hawaii, Department of Public Safety, Narcotics Enforcement Division and hold an active controlled substance registration with the Drug Enforcement Administration. Authorized prescribers must have a Hawaii practicing address.
- 5.2 Ability of staff to manually register authorized users

6. Analysis and Reporting

- 6.1 Ability to analyze, query and report from the PMP database.
- 6.2 Authorized users will be allowed to query the system for a patient based on Last Name, First Name and date of birth and any aka's if known to the user.

- 6.3 Run a prescription history of all prescriptions that were dispensed based on their individual identifier.
- 6.4 Authorized users are able to run audit reports showing all the reports requested by their account.
- 6.5 Ability to create threshold reports using various criteria
- 6.6 The thresholds will be flexible and be run on demand.
- 6.7 Ability to run unsolicited reports
- 6.8 On demand data querying capabilities
- 6.9 The system will provide certain de-identified monthly and quarterly reports to be determined. Examples could include the top ten drugs by prescription count, prescription counts by county or age, etc...
- 6.10 Ability to generate required performance measures reporting requested by the Federal Bureau of Justice Assistance for the purpose of grant

7. Help Desk

- 7.1 The Vendor will maintain a help desk available to the user for support with submissions, web-based collection, analysis, reporting and the administration of passwords and user accounts. It is expected that most calls will be placed during normal business hours (Hawaii-Aleutian Standard Time) but that some support may be needed at all hours for web-based reporting. At a minimum Hawaii needs the help desk available eight hours a day, five days a week (12/5, HST, 8 AM to 5 PM).
- 7.2 In addition to the help desk, the Vendor will provide a training plan acceptable to Hawaii for orienting new dispensers and prescribers and will assist new users in their initial configuration.

8. Training

- 8.1 Train-the-Trainer
The Vendor will provide training to Hawaii staff
- 8.2 Training Materials
The Vendor will be responsible for providing up-to-date and reproducible materials for initial and continued training of Hawaii staff and all system users. The Vendor will also be responsible for maintaining an online help feature for all system users.

9. Other Requirements

- 9.1 Vendor shall submit with their bid submittal a detailed report of the system they are proposing, to include how their system meets each requirement specified herein. Note: stating that their system “meets this requirement” is unacceptable and will be cause for rejection.
- 9.2 The system shall be operational within three (3) months from the commencement date on the Notice to Proceed. Vendor shall submit its tentative schedule based on a tentative commencement date of October 1, 2009.

SPECIAL PROVISIONS

TERMS AND ACRONYMS USED HEREIN

ASO-PC	=	Department of Public Safety, Administrative Services Office - Purchasing and Contracts Sectopm, 919 Ala Moana Boulevard, Room 413, Honolulu, Hawaii 96814
Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
GET	=	General Excise Tax
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
GC	=	General Conditions Form AG-008 issued 08/29/2008 by the Department of the Attorney General.
IFB	=	Invitation for Bids
NED	=	Narcotics Enforcement Division, Department of Public Safety
RFP	=	Request for Proposals

SCOPE

The Electronic Monitoring of Prescriptions for NED shall be in accordance with these Special Provisions, the attached Specifications, and the GC by reference made a part hereof and available at the Department of Public Safety, ASO-PC, 919 Ala Moana Boulevard, Room 413, Honolulu, Hawaii 96813, and on the internet at:
<http://www4.hawaii.gov/StateFormsFiles/ag008.doc>.

CONTRACT ADMINISTRATOR

For purposes of this contract, Mr. Keith Kamita, Narcotics Enforcement Division Administrator, or his authorized representative is designated the Contract Administrator (CA). The CA can be reached at (808) 837-8477.

TERM OF CONTRACT

Contractor shall enter into a contract for the services specified herein for a period of **twenty-four (24)** months commencing on the date specified on the Notice to Proceed. The tentative contract start date is **October 1, 2009**.

Unless terminated, the contract may be extended for not more than **three (3)** additional twelve-month periods or parts thereof, without the necessity of rebidding, upon mutual agreement in writing, at the quoted "hosting services" prices on Offer Form page OF-2 and subject to the availability of funds beyond June 30, 2010.

FEDERAL FUNDS AS RECEIVED

It is understood and agreed to by all bidders that the contract resulting from this IFB shall be construed to be an agreement to pay the obligation under the contract only out of federal funds to be received from the federal government when the federal funds are so received and

shall not be construed as a general agreement to pay such obligation at all events out of any funds other than those which are received from the federal government.

CONTRACTOR'S CERTIFICATIONS OR REPRESENTATIONS

RESPONSIBILITY OF OFFERORS Offeror is advised that if awarded a contract under this solicitation, Offeror shall, upon award of the contract, furnish proof of compliance with the requirements of §3-122-112, HAR:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. One of the following:
 - a. Be registered and incorporated or organized under the laws of the State (hereinafter referred to as a "Hawaii business"); and
 - b. Be registered to do business in the State (hereinafter referred to as a "compliant non-Hawaii business").

Refer to the Award of Contract provision herein for instructions on furnishing the documents that are acceptable to the State as proof of compliance with the above-mentioned requirements.

CERTIFICATION OF INDEPENDENT COST DETERMINATION. By submission of an offer in response to this solicitation, Offeror certifies the following:

1. The costs in response to this solicitation have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.
2. Unless otherwise required by law, the cost which have been quoted in this solicitation have not been knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.

No other attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

UTILIZATION OF SMALL BUSINESS CONCERNS

1. It is the policy of the State of Hawaii that small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any state agency, including contracts and subcontracts for subsystems, assemblies, components, and related services. It is further the policy of the State of Hawaii that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns
2. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The

Contractor further agrees to cooperate in any studies or surveys as may be conducted by agencies of the State of Hawaii as may be necessary to determine the extent of the Contractor's compliance with this clause.

- a. Definitions. As used in this contract, a small business concern is a firm which has annual receipts of less than \$25 million for NAICS code number 518210 – Data Processing, Hosting and Related Services.
- b. Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern.

SMALL BUSINESS SUBCONTRACTING PLAN (JUL 2005)

1. Definitions. As used in this clause a subcontracting plan means a plan that covers the entire contract period (including option periods), applies specifically to this contract, and has goals that are based on the Offeror's planned subcontracting in support of the contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.
2. Subcontract means any agreement (other than one involving an employer—employee relationship) entered into by the prime Contractor or its lower-tier subcontractors calling for supplies or services required for performance of the contract or subcontract.
3. The Offeror, upon request by the procurement officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business concerns. The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the procurement officer. Failure to submit and negotiate the subcontracting plan shall make the Offeror ineligible for award of a contract.
4. The Offeror's subcontracting plan shall include the following:
 - a. Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns as subcontractors. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.
 - b. A statement of total dollars planned to be subcontracted to small business concerns.
 - c. A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to small business concerns.
 - d. A description of the method used to develop the subcontracting goals in paragraph 4a of this clause.
 - e. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Department of Defense Central Contract Registration data base ("CCR") "Dynamic Small Business Search" function at <http://www.ccr.gov/>, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, HUB Zone, small disadvantaged, and women-owned

small business trade associations). A firm may rely on the information contained in the CCR "Dynamic Small Business Search" function as an accurate representation of 'a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUB Zone small, small disadvantaged, and women-owned small business source list. Use of the CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

- f. The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.
- g. A description of the efforts the Offeror will make to assure that small business concerns have an equitable opportunity to compete for subcontracts.
- h. Assurances that the Offeror will require all subcontractors that receive subcontracts in excess of \$500,000 (\$1,000,000 for construction of any public work) to adopt a subcontracting plan that complies with the requirements of this clause.
- i. Assurances that the Offeror will cooperate in any studies or surveys as may be required and provide requested information so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan.

LIQUIDATED DAMAGES — SUBCONTRACTING PLAN

1. "Failure to make a good faith effort to comply with the subcontracting plan," as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.
2. Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars. If, at contract completion, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with **paragraph 3 of this clause** that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount equal to the actual dollar amount by which the Contractor failed to achieve its subcontract goal.
3. Before the procurement officer makes a final decision that the Contractor has failed to make such good faith effort, the procurement officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the procurement officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the procurement officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in **paragraph 2 of this clause**.

4. The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the procurement officer.
5. Liquidated damages shall be in addition to any other remedies that the Government may have including debarment.

LIMITATIONS ON SUBCONTRACTING. By submission of its offer, the Offeror agrees that in performance of the contract in the case of a contract for the Electronic Prescription Drug Monitoring Program for the NED.

1. Services (except construction). At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.
2. Supplies (other than procurement from a non-manufacturer of such supplies). The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.
3. General construction. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.
4. Construction by special trade contractors. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees

CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS

Contractors are hereby notified of the applicability of Section 11-205.5, HRS, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body.

OFFER PREPARATION

Offer Form. page OF-1. Offeror is requested to submit its offer using the Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate the exact legal name in the appropriate space on the Offer Form. Failure to do so may delay proper execution of the contract.

Offeror's authorized signature shall be an original signature in ink. If Offer Form, page OF-1 is unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material containing an original signature indicating the Offeror's intent to be bound.

Bid Prices. Bid price shall include all labor, equipment, materials, all applicable taxes and all other expenses incurred to provide services as specified herein. The bid prices shall be the all-inclusive cost to the State, and no other charges will be honored, unless addressed herein.

Multiple or Alternate Offers. Multiple or alternate offers are not allowed and shall be rejected.

Tax Liability. Work to be performed under this solicitation is a business activity taxable under Chapter 237, HRS, and if applicable, taxable under Chapter 238, HRS. Vendors are advised

that they are liable for the Hawaii GET at the current 4% rate for all islands except Oahu, and 4.5% for the island of Oahu only, which includes the .5% assessment for the County Surcharge Tax (CST); and also liable for the applicable Use tax at the current at the rate of .5%. If, however, an Offeror is a person exempt by the HRS from paying the GET and therefore not liable for the taxes on this solicitation, Offeror shall state its tax exempt status and cite the HRS chapter or section allowing the exemption.

Taxpayer Preference. For evaluation purposes, pursuant to Section 103-53.5, HRS, as amended, the price offer submitted by an Offeror not liable for the GET under this solicitation, shall be increased by the current rate of the GET. Under no circumstance shall the dollar amount of the award include the aforementioned adjustments.

Offer Guaranty or Bid Bond. An offer guaranty is not required for this solicitation.

Offeror Qualifications. Offeror shall complete information on the Offer Form pages where Offeror qualification information is requested. Offeror shall submit to the State, at the time of offer submittal or upon the State's request, a copy of whatever State licenses are required to provide the services specified herein.

Insurance. Offeror shall provide insurance information as requested on the appropriate Offer Form, page.

References. Offeror shall list on the appropriate Offer Form page, companies or government agencies for which Offeror has performed the same or similar services as specified herein for the past two (2) consecutive years, and who can, if necessary, attest to the Offeror's service performance. The State reserves the right to contact the references to inquire about Offeror's current or past job performance.

Wage Certificate. Offeror shall complete and submit the attached wage certification by which Offeror certifies that the services required will be performed pursuant to Section 103-55, HRS.

OFFER SUBMITTAL

Offeror shall submit the completed offer in a sealed envelope identified with the following information:

The words, "INVITATION FOR BIDS"
The Invitation for Bids number
The title of the Invitation for Bids,
The date and time of bid opening,
Attention: Procurement and Contracts Staff

INSPECTION OF OFFERS

At the bid opening, all offers may be inspected after having been publicly read, provided that only one offer be inspected at a time and that no offers shall be permitted to leave the bid opening room.

After the formal procedure of bid opening, all offers will be evaluated for award recommendation. During this period, offers will not be available for inspection.

METHOD OF AWARD

Award, if any, will be made to the qualified responsive and responsible Offeror submitting the lowest Total Sum Bid Price.

The solicitation may be canceled or the offers may be rejected, in whole or in part, when it is in the best interest of the Department of Public Safety, as provided in Sections 3-122-95 through 3-122-97, Hawaii Administrative Rules (HAR).

Responsibility of Lowest Responsive Bidder. Reference §3-122-112, HAR, Responsibility of Offerors. If compliance documents have not been submitted to the ASO-PC prior to award, the lowest responsive offeror shall produce documents to the procurement officer to demonstrate compliance with this section.

HRS Chapter 237 tax clearance requirement for award. Instructions are as follows:

Pursuant to §103D-328, HRS, lowest responsive offeror shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. It must be valid on the date it is received by the ASO-PC.

The tax clearance certificate shall be obtained on the State of Hawaii, DOTAX *TAX CLEARANCE APPLICATION* Form A-6 (Rev. 2003) which is available at the DOTAX and IRS offices in the State of Hawaii or the DOTAX website, and by mail or fax:

DOTAX Website (Forms & Information): <http://www.state.hi.us/tax/alphalist.html#a>
DOTAX Forms by Fax/Mail: (808) 587-7572
1-800-222-7572

Completed tax clearance applications may be mailed, faxed, or submitted in person to the Department of Taxation, Taxpayer Services Branch, to the address listed on the application. Facsimile numbers are:

DOTAX: (808) 587-1488
IRS: (808) 539-1573

The application for the clearance is the responsibility of the Offeror, and must be submitted directly to the DOTAX or IRS and not to the ASO-PC. However, the tax clearance certificate shall be submitted to the ASO-PC.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements for award.

Instructions are as follows:

Pursuant to §103D-310(c), HRS, the lowest responsive offeror shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue and must be

valid on the date it is received by the ASO-PC. A photocopy of the certificate is acceptable to the ASO-PC.

The certificate of compliance shall be obtained on the State of Hawaii, DLIR *APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH SECTION 3-122-112, HAR*, Form LIR#27 which is available at www.dlir.state.hi.us/formsall.shtml or at the neighbor island DLIR District Offices. The DLIR will return the form to the Offeror who in turn shall submit it to the ASO-PC.

The application for the certificate is the responsibility of the offeror, and must be submitted directly to the DLIR and not to the ASO-PC. However, the certificate shall be submitted to the ASO-PC.

Compliance with Section 103D-310(c)(1) and (2), HRS. Pursuant to section 3-122-112, HAR, the lowest responsive offeror shall be required to submit a *CERTIFICATE OF GOOD STANDING* (Certificate) issued by the State of Hawaii Department of Commerce and Consumer Affairs Business Registration Division (BREG). The Certificate is valid for six months from date of issue and must be valid on the date it is received by the ASO-PC. A photocopy of the certificate is acceptable to the ASO-PC.

To obtain the Certificate, the Offeror must first be registered with the BREG. A sole proprietorship, however, is not required to register with the BREG, and therefore not required to submit the certificate.

On-line business registration and the Certificate are available at www.BusinessRegistrations.com. To register or to obtain the Certificate by phone, call (808) 586-2727 (M-F 7:45 to 4:30 HST). Offerors are advised that there are costs associated with registering and obtaining the Certificate.

Hawaii Compliance Express. Alternately, instead of separately applying for these certificates at the various state agencies, vendors may choose to use the Hawaii Compliance Express (HCE), which allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> to acquire a "Certificate of Vendor Compliance." The HCE provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of Chapter 103D-310(c), HRS, shall be accepted for both contracting purposes and final payment. Vendors that elect to use the new HCE services will be required to pay an annual fee of \$15.00 to the Hawaii Information Consortium, LLC (HIC). Vendors choosing not to participate in the HCE program will be required to provide the paper certificates as instructed in the sections previous to this one.

Timely Submission of all Certificates. The above certificates should be applied for and submitted to the ASO-PC as soon as possible. If a valid certificate is not submitted on a timely basis for award of a contract, an offer otherwise responsive and responsible may not receive the award.

Final Payment Requirements. Contractor is required to submit a tax clearance certificate for final payment on the contract. A tax clearance certificate, not over two months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

In addition to the tax clearance certificate, an original "Certification of Compliance for Final Payment" (SPO Form-22), attached, will be required for final payment. A copy of the Form is also available at www.spo.hawaii.gov. Select "Forms for Vendors/Contractors" from the Hawaii Public Procurement Code, Chapter 103D, HRS, menu

DISQUALIFICATION OF OFFERORS

An Offeror shall be disqualified and his offer automatically rejected for any one or more of the following reasons: proof of collusion, in which case, all offers involved in the collusive action will be rejected and any participant to such collusion shall be barred from future solicitations until reinstated; Offeror's lack of responsibility and cooperation as shown by past work or services; Offeror being in arrears on existing contracts with the State or having defaulted on previous contracts; Offeror's lack of proper equipment and/or sufficient experience to perform the work contemplated; Offeror does not possess proper license to cover the type of work contemplated, if required; Offeror's delivery of the offer after the deadline specified in the public notice calling for offers, or as amended, except as allowed in Section 3-122-29(1), HAR; or Offeror's failure to pay, or satisfactorily settle, all bills overdue for labor and material on former State contracts at the time of issuance of solicitation.

OFFER ACCEPTANCE

Acceptance of an offer, if any, will be made within sixty (60) calendar days after the opening of offers, and the prices quoted by the Offeror shall remain firm for the sixty (60) day period.

CONTRACT EXECUTION

Successful Offeror shall be required to enter into a formal written contract. No payment or performance bonds are required for this contract.

Any agreement arising out of this invitation for bid is subject to the approval of the Department of the Attorney General as to form, and to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

No work is to be undertaken by the Contractor prior to the commencement date. The State of Hawaii is not liable for any work, cost, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official starting date.

If the options to extend for each additional twelve-month period are mutually agreed upon, Contractor shall be required to execute a Supplemental Agreement to the contract for each additional extension period.

LIABILITY INSURANCE

Contractor shall maintain insurance acceptable to the State in full force and effect throughout the term of this contract. The policy or policies of insurance maintained by the Contractor shall provide the following limit(s) and coverage(s):

Coverage
Commercial Liability

Limits
\$1,000,000 combined single limit

(occurrence form)

limit per occurrence for
bodily injury and property damage.

Each insurance policy required by this contract shall contain the following clauses:

1. "This insurance shall not be cancelled, limited in scope of coverage or non-renewed until after 30 days written notice has been given to the State of Hawaii, Department of Public Safety, Administrative Services Office – Purchasing and Contracts Section, 919 Ala Moana Boulevard, Room 413, Honolulu, Hawaii 96814."
2. "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The Contractor shall maintain the minimum insurance required in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. The Policy or policies of insurance maintained by the Contractor shall provide the limits and coverages specified herein.

The Contractor agrees to deposit with the State of Hawaii, on or before the effective date of this contract, certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract. Upon request by the State, Contractor shall furnish a copy of the policy or policies.

Failure of the Contractor to provide and keep in force such insurance shall be rejected as material default under this contract, entitling the State to exercise any or all remedies provided in this contract for a default of the Contractor.

The procurement of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence connected with this contract.

INVOICING

Contractor shall forward monthly invoices, original and three (3) copies, to the Contract Administrator:

Department of Public Safety
Narcotics Enforcement Division
3375 Koapaka Street, Suite D100
Honolulu, Hawaii 96819

Attention: Mr. Keith Kamita

Contractor shall reference the contract number on all invoices for payment.

Final Payment. A tax clearance certificate, not over two (2) months old, with an original green certified copy stamp, must accompany the invoice for final payment on the contract.

PAYMENT

Section 103-10, HRS, provides that the State shall have thirty (30) calendar days after receipt of invoice or satisfactory delivery of goods to make payment. For this reason, the State will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by Section 103-10, HRS, as amended.

The State will not recognize any requirement established by the Contractor and communicated to the State after award of the contract that requires payment within a shorter period or interest payment not in conformance with Statute.

REMOVAL OF CONTRACTOR'S EMPLOYEES

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the Contracting Officer.

TERMINATION OF SERVICES

Contractor is advised that the State reserves the right to terminate this maintenance contract without penalty, should Contractor fail to provide satisfactory maintenance services due to Contractor's negligence, or due to too frequent systems/equipment breakdown as a result of faulty workmanship or defective/poor quality replacement parts or materials.

RE-EXECUTION OF WORK

The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall immediately remedy any defects due to faulty workmanship by the Contractor. Should the Contractor fail to comply, the State reserves the right to engage the services of another company to perform the services and to deduct such costs from monies due.

LIQUIDATED DAMAGES

Liquidated damages due to scheduling issues are fixed at \$25.00 for each and every day the Contractor fails to comply with the requirements of this contract. Exceptions will be granted only for problems beyond the control of the Contractor.

Liquidated damages due to non-conformance with the approved Contractor's subcontractor utilization plan are detailed on [Special Provisions, page SP-4](#)

RIGHTS AND REMEDIES FOR DEFAULT

In the event the Contractor fails, refuses, or neglects to perform the services in accordance with the requirements of these Special Provisions, the Specifications, and General Conditions herein, in addition to the recourse stated in Section 13 of the General Conditions, the State reserves the right to purchase in the open market, a corresponding quantity of the services specified herein and to deduct from any moneys due or that may thereafter become due the Contractor, the difference between the price named in the contract and the actual cost thereof to the State. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the State. The State may also utilize all other remedies provided by law.

RECORDS RETENTION

The Contractor and any subcontractors shall maintain the books and records that relate to the contract and any cost or pricing data for three (3) years from the date of final payment under the contract.

PROTEST

A protest shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract.

The notice of award letter(s), if any, resulting from this solicitation shall be posted on the internet at: <http://www.spo.hawaii.gov>

Click on "Awards"

Click on " Contracts for Goods, Services and Construction"

Click on "Search"

Select "Invitation for Bids" at Method Drop Down Field.

Select "Public Safety" at Department Drop Down Field.

Click on "Search"

Any protest pursuant to §103D-701, HRS, and Section 3-126-3, HAR, shall be submitted in writing to the Director, Department of Public Safety, 919 Ala Moana Boulevard, 4th Floor, Honolulu, Hawaii 96814.